

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

STEVEN WHEELER,
Plaintiff,

v.

Case No: 3-07-0198
JUDGE HAYNES

RONNIE MORAN, Chief of Police,
Officially and Individually;
REAGAN FARR, Commissioner,
Department of Revenue, Officially,
Defendants.

COMMISSIONER OF REVENUE'S MOTION TO DISMISS

OKWEEK
This motion
is DENIED as
not see
D/E NO 32.
[Signature]
4/8/08
2-19-08

Defendant Reagan Farr, Commissioner of Revenue for the State of Tennessee ("the Commissioner"), by and through the Attorney General of Tennessee, moves this Court to dismiss this suit with respect to the Commissioner under Fed. R. Civ. P. 12(b)(1) and (6) for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted. Plaintiff Steven Wheeler ("Plaintiff") asserts that this Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343 by way of 42 U.S.C. §§ 1983, 1985, and 1988. Complaint at ¶ 1.

Plaintiff originally named the "Tennessee Department of Revenue" as a defendant in this matter, but filed a "Motion to Amend Name of Party" (Docket No. 21) which was granted by this Court, resulting in the Department of Revenue being replaced as a defendant by the Commissioner. Docket No. 23.

Plaintiff's purported causes of action arise under 42 U.S.C. §§ 1983, 1985, and 1988. No injunctive or declaratory relief under 42 U.S.C. §§ 1983, 1985, and 1988 is available in a state tax case when an adequate legal remedy is available under state law. *See National Private Truck*